



# PUBLIC NOTICE

**Federal Communications Commission**  
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**Washington, D.C. 20554**

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**DA 04-3865**  
**Released: December 8, 2004**

**PLEADING CYCLE ESTABLISHED FOR PETITIONS OF GLOBAL CROSSING  
TELECOMMUNICATIONS, INC. AND SBC COMMUNICATIONS, INC. FOR  
DECLARATORY RULING**

**WC Docket No. 04-424**

**COMMENTS DUE: December 29, 2004**  
**REPLY COMMENTS DUE: January 10, 2005**

On June 14, 2004, the United States District Court for the Eastern District of Missouri, pursuant to the doctrine of primary jurisdiction, referred to the Commission issues raised in a civil action involving Global Crossing Telecommunications, Inc. ("Global Crossing") and Southwestern Bell Telephone, L.P. ("Southwestern Bell").<sup>1</sup> On October 27, 2004, Global Crossing filed a petition for declaratory ruling with the Commission pursuant to the district court's referral.<sup>2</sup> Although it is not a party to the underlying civil action, on November 12, 2004, SBC Communications, Inc. ("SBC") also filed a petition for declaratory ruling regarding the referral.<sup>3</sup> We seek comment on the issues identified in these petitions, which are described in more detail below.

In its district court complaint against Southwestern Bell, Global Crossing claims that Southwestern Bell is operating in violation of its interstate access tariff, F.C.C. Tariff No. 73 ("Tariff No. 73"), by charging intrastate access rates for mobile telephone calls based on the telephone numbers of the caller and the called party even when the actual geographic origination points of the mobile calls are unknown. In its June 14th order, the district court referred to the Commission the issues raised in Global Crossing's complaint and stayed the case pending our decision.<sup>4</sup>

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<sup>1</sup> Order, *Global Crossing Telecommunications, Inc. v. Southwestern Bell Telephone, L.P.*, Case No. 4:04CV00319-ERW (E.D. Mo. Jun. 14, 2004) (Referral Order).

<sup>2</sup> Petition for Declaratory Ruling of Global Crossing Telecommunications, Inc., WC Docket No. 04-424 (filed Oct. 27, 2004) (Global Crossing Petition).

<sup>3</sup> Petition for Declaratory Ruling of SBC, WC Docket No. 04-424 (filed Nov. 12, 2004) (SBC Petition).

<sup>4</sup> Referral Order at 4.

In its petition for declaratory ruling, Global Crossing requests that the Commission declare that, when the geographic location of a mobile caller is unknown, Southwestern Bell's Tariff No. 73 requires that jurisdiction be determined by the locations of the network entry point of the call and the called station (known as the entry-exit surrogate method ("EES")).<sup>5</sup> In support of this position, Global Crossing relies on section 2.4.1(A)(1) of Tariff No. 73, which provides for the EES method "when the customer does not have sufficient data to determine jurisdiction . . . ."<sup>6</sup> SBC argues that section 2.4.1(A)(1) is inapplicable when the call detail of a mobile telephone call contains the originating telephone number.<sup>7</sup> SBC cites section 2.4.1(A)(2) of its interstate access tariff, which provides that, "where jurisdiction can be determined from the call detail, the Telephone Company will bill according to such jurisdiction . . . ."<sup>8</sup> SBC asks the Commission to issue a declaratory ruling stating that Tariff No. 73 permits Southwestern Bell to determine the jurisdiction of a mobile call for access charge purposes by reference to the telephone number of the calling party when the calling party's number is provided in the call detail, regardless of the actual geographic location of the caller.<sup>9</sup>

Interested parties may file comments in response to the issues identified in the petitions for declaratory ruling filed by Global Crossing and SBC on or before **December 29, 2004**, and reply comments on or before **January 10, 2005**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.<sup>10</sup> Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs/>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of the proceeding, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number, in this case, WC Docket No. 04-424. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). **Parties are strongly encouraged to file comments electronically using the Commission's ECFS.**

The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002.

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<sup>5</sup> See Global Crossing Petition at 2.

<sup>6</sup> See *id.* at 6.

<sup>7</sup> See SBC Petition at 2-3.

<sup>8</sup> See *id.* at 3.

<sup>9</sup> See *id.* at 2.

<sup>10</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

- The filing hours at this location are 8:00 a.m. to 7:00 p.m.
- All hand deliveries must be held together with rubber bands or fasteners.
- Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, Room TW-A325, 445 12<sup>th</sup> Street, SW, Washington, D.C. 20554. Parties should also send a copy of their filings to Fred Campbell, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, Room 5-A333, 445 12<sup>th</sup> Street, SW, Washington, D.C. 20554, or by e-mail to [fred.campbell@fcc.gov](mailto:fred.campbell@fcc.gov). Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, (202) 488-5300, or via e-mail to [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

Documents in WC Docket No. 04-424 are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12<sup>th</sup> St. SW, Room CY-A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.<sup>11</sup> Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required.<sup>12</sup> Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules.<sup>13</sup>

For further information, contact Fred Campbell of the Pricing Policy Division, Wireline Competition Bureau at (202) 418-1553.

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<sup>11</sup> See 47 C.F.R. §§ 1.1200, 1.1206.

<sup>12</sup> See 47 C.F.R. § 1.1206(b).

<sup>13</sup> 47 C.F.R. § 1.1206(b).